

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1230 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

PAPPUBHAI @ RAJENDRAKUMAR CHHAKILAL JAIN

Versus

STATE OF GUJARAT

Appearance:

MR KR JANI for Petitioner
MR KT DAVE, AGP for Respondent Nos.1, 2 & 4
Ms. PJ DAWAVALA,for Respondent No. 3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 13/04/2000

ORAL JUDGEMENT

#. District Magistrate, Ahmedabad, passed an order on
January 6, 2000 in exercise of powers under section 3 (2)
of the Prevention of Blackmarketing & Maintenance of

Supplies of Essential Commodities Act, 1980 ("PBM Act" for short), detaining the petitioner - Pappubhai Alias Rajendrakumar Chakilal Jain under the provisions of the PBM Act.

#. Grounds of detention indicate that the petitioner was found to be indulging in activities which were found to be detrimental to smooth supply of solvent. The activities were found to have been carried on by the petitioner for personal gain.

#. The petitioner has challenged the order of detention on various grounds taken in the petition. However, learned advocate Mr. Jani, appearing for the petitioner has placed reliance only on the ground of delay in considering the representation made on behalf of the detenu by the Central Government. He submitted that if the affidavits-in-reply filed by the detaining authority, State Government and the Central Government are perused, it is amply clear that the representation was expeditiously decided by the State Government, but there was an unexplained delay of precisely one month from 28th February, 2000 to 27th March, 2000 in deciding the representation by the Central Government. No explanation is tendered to explain the delay. The continued detention of the detenu therefore, would be vitiated and therefore, the petition maybe allowed.

#. Mr. K.T. Dave, learned AGP appearing for the State Government and the detaining authority and Ms. P.J. Davawala, learned Standing Counsel appearing for the Union of India have opposed this petition vehemently. However, Ms. Davawala, placed reliance on the affidavit-in-reply filed on behalf of the Union of India for opposing the petition.

#. Having regard to the rival side contentions, it is clear that a representation dated February 21, 2000 was sent through jail authorities on February 22, 2000. The same was expeditiously forwarded by the detaining authority on February 23, 2000 to the State Government and the State Government, in turn, decided the same on February 28, 2000. The representation was received by the State Government on 24th February, 2000 and 26th and 27th February, 2000 were public holidays. Thus, the representation is expeditiously considered by the State Government.

#. So far as the Central Government is concerned, if the affidavit-in-reply filed on behalf of the Central Government is seen, it is clear that the representation

was received by the Central Government on February 28, 2000 along with parawise comments and the same was decided by the Central Government on March 27, 2000. There is no explanation coming forward as to why this much time was consumed in considering the representation. The period of precisely one month is consumed by the Central Government in deciding the representation practically for no reasons since parawise comments were also forwarded by the State Government along with the representation. Under the circumstances, the delay in considering the representation has vitiated the continued detention and the petition deserves to be allowed on this ground alone.

#. The petition is allowed. The impugned order of detention dated 6th January, 2000 is hereby quashed and set aside. The detenu - Pappubhai Alias Rajendrakumar Chhakilal Jain, is ordered to be set at liberty forthwith, if not required in any other matter. Rule is made absolute with no order as to costs.

[A.L. DAVE, J.]

pirzada/-